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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/530,479
Filing Date: April 06, 2005
Appellant(s): HIROSE ET AL.

Bruce H. Bernstein
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/21/08 appealing from the Office action mailed 2/25/08.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

This appeal involves claims 1-6 and 8-14.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US Pub 2002/0111698	Graziano et al.	8/15/2002
US Pub 2002/0156899	Sekiguchi	10/24/2002

US Pub 2002/0180579

Nagaoka et al.

12/05/2002

(9) Grounds of Rejection

Whether claims 1-3, 5, 6, 8-10, 12 and 14 are unpatentable under 35 U.S.C 103(a) as obvious over Graziano et al. (US Pub 2002/0111698) in view of Sekiguchi (US Pub 2002/0156899)

Whether claims 4, 11 and 13 are unpatentable under 35 U.S.C 103(a) as obvious over Graziano et al. (US Pub 2002/0111698) in view of Sekiguchi (US Pub 2002/0156899) and further in view of Nagaoka et al. (US Pub 2002/0180579)

Claim Rejections - 35 USC § 103

1. Claims 1-3, 5, 6, 8-10, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graziano et al. (US Pub 2002/0111698) in view of Sekiguchi (US Pub 2002/0156899). (Note: the Examiner made a typo graphical error in the final rejection stating "claims 1-3, 5-10, 12 and 14, as claim 7 had been cancelled).

As of claim 1, Graziano discloses a remote controller which enables a terminal device (via remote devices 10; see fig. 1) to control a device (home attendant 31 and home devices 40; note Graziano discloses that the functionality of home attendant can be incorporated into the home device 40, so each device is communicating with the web based host using the network; see paragraph [0048], lines 8-11, so in the Office Action below the home device encompass both home attendant 31 and home device 40) through a network (via a web-based system for monitoring and controlling home devices; see paragraph [0002]), comprising:
a server (via the web-based host 70) operable to communicate with the terminal device

(via remote device 10) through the network (via network 50), and generate device control data for controlling the device based on a request from the terminal device (via the web-based host device 70 comprising a server 71 which includes a microprocessor 72 which is capable of executing software 73 stored in memory 74, and database 75 connected to server 71. Software 73 includes control panel programs 76 which include multiple applications to receive the signals from the remote device and control the home devices through those commands; see paragraph [0057]); and a server operable to acquire and store a latest address of the device on the network by communicating with the device at predetermined time intervals (via the web-based host 70 communicating with homes 30 via network 30; see paragraph [0057], lines 4-6), the second-server receiving the device control data from the first server, generating first transmission data including the device control data, and transmitting the first transmission data to the device (via the web based system receiving the commands from the remote device and transmitting them to the home attendant 31 (device) (see paragraph [0079]; also see fig. 1).

However Graziano fails to disclose two different servers and a second server operable to acquire and store a latest IP address of the device on the network.

As explained in previous rejection, the Examiner believes, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the web-based system of Graziano to use more than one server since it has been known in the art that omission or addition of an element, which perform the same functionality, would be a matter of design choice.

In order to further support the Examiner's point of view, Sekiguchi discloses a home network system, including first server (Gateway 118) and a second server (Home Gateway 102) wherein Gateway 118 communicate with a terminal device (via mobile phone) and Home Gateway 102 communicate with the devices inside a home (see fig. 1, also see paragraphs [0019] and [0024]). Sekiguchi further discloses that home gateway 102 (second server) comprises an IP processor (221) which assign latest ip address to the devices (see paragraph [0029]) and an IP processor (215), which obtain and stores the IP address (see paragraph [0038]; also see paragraph [0061]).

From the teaching of Sekiguchi it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Graziano to include a second server to obtain a latest IP address of the device on the network as taught by Sekiguchi so the IP address of the device is automatically obtained and the interface connectivity problem is avoided (see paragraph [0011]).

As of claim 2, Graziano discloses that the server (via web based 70) comprises: data storage operable to store control information that is information necessary to control an operation of the device (via the database 75 storing the data/information from received from the home attendant 31; see paragraph [0038]); display data generator operable to generate display data that allows the terminal device to display the control information (Graziano discloses that the web based host communicates the monitoring and/or other information related to the home device to the remote device via the network where the information is displayed; see paragraph [0010], lines 17-20); and

control data generator operable to generate the device control data in response to a request from the terminal device (via web based host (70) comprising control panel programs (76) that include different applications so remote device's (10) (terminal device) user can enter home configuration information or home device monitoring and/or control information; see paragraph [0057], lines 15-20);

address storage operable to store an address of the device on the network (via the web based host storing the unique address of each home device; see paragraph [0068], lines 1-7);

address generator operable to generate an address of the device controlled according to the device control data with reference to the stored address (via the web based host comprising home control panel files that contains the address of the home devices and allow the user to monitor and control home devices; see paragraph [0079]); and

transmission data generator operable to generate the first transmission data including the address of the device and the device control data to the device, and transmit the first transmission data to the device, (via the control panel program 76 establish a connection with the home devices and transmitting the transmission data (user's commands) to the home device (see paragraph [0079]), and

the device (home attendant 31 and home devices 40; note Graziano discloses that the functionality of home attendant can be incorporated into the home device 40, so each device is communicating with the web based host using the network; see paragraph [0048], lines 8-11, so in the Office Action, the home device encompass both home attendant 31 and home device 40) comprises:

section operable to extract the device control data from the first transmission data and section operable to control the operation of the device based on the extracted data for device control (via the home attendant 31 receiving the information from the web based host and performing the function based on that received data; see paragraph [0080]).

However Graziano fails to disclose two different servers. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the web-based system of Graziano to use more than one server since it has been known in the art that omission or addition of an element, which perform the same functionality, would be a matter of design choice.

As of claim 3, Graziano discloses that the device comprises:
section operable to detect a status of a target to be controlled in the device; and
section operable to generate second transmission data including status information that is information on the detected operating status, and transmit the second transmission data to the server (via the home attendant monitoring the device 40 and transmitting the status to the web based host through the network; see paragraph [0039]),
the server comprises:

section operable to extract the status information from the second transmission data received from the device (via the web based host receiving the status information from the home attendant; see paragraph [0039], lines 6-9); and
section operable to generate third transmission data including the extracted status information, and the server comprises section operable to extract the status information from the third transmission data received, and generate the display data using the

extracted status information (via web based host transmitting the received data to the user; see paragraph [0039], lines 7-9) (also see paragraph [0084] and [0085]).

However Graziano fails to disclose two different servers. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the web-based system of Graziano to use more than one server since it has been known in the art that omission or addition of an element, which perform the same functionality, would be a matter of design choice.

As of claim 5, Graziano discloses that the device is a temperature controlling apparatus (via a thermostat) and user wants to control the temperature using the remote device (see paragraph [0080]).

As of claim 6, Graziano discloses all the elements of the claimed invention but fails to explicitly disclose three or more servers. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the web-based system of Graziano to use more than one server since it has been known in the art that omission or addition of an element, which perform the same functionality, would be a matter of design choice.

As of claim 7, Graziano discloses that the device functions into which a function of the first server and a function of the second server and third server are integrated are provided by one server (via web based host 70).

As of claim 8, Graziano discloses that a remote control method for enabling a terminal device (via remote devices 10; see fig. 1) to control a device (home attendant 31 and home devices 40; note Graziano discloses that the functionality of home

attendant can be incorporated into the home device 40, so each device is communicating with the web based host using the network; see paragraph [0048], lines 8-11, so in the Office Action below the home device encompass both home attendant 31 and home device 40) through a network (via network 50), the method comprising: acquiring and storing a latest address of the device on the network by communicating with the device at predetermined time intervals (via web based host storing the unique address of each device; note: Graziano also discloses the predetermined time by storing the behavioral settings of the device, so the user can choose at what time to monitor or control and what time the device should send the status to the terminal device; see paragraph [0068]), and communicating with the terminal device through the network, generating device control data for controlling the device based on a request from the terminal device (via software 73 including control panel programs⁷⁶ which include multiple applications to receive the signals from the remote device and control the home devices through those commands; see paragraph [0057]; see fig. 5);, generating first transmission data including the device control data and transmitting the first transmission data to the device (via the web based system receiving the commands from the remote device and transmitting them to the home attendant 31 (device) (see paragraph [0079]; also see fig. 1).

Sekiguchi discloses a home network system, including first server (Gateway 118) and a second server (Home Gateway 102) wherein Gateway 118 communicate with a terminal device (via mobile phone) and Home Gateway 102 communicate with the

devices inside a home (see fig. 1, also see paragraphs [0019] and [0024]). Sekiguchi further discloses that home gateway 102 (second server) comprises an IP processor (221) which assign latest ip address to the devices (see paragraph [0029]) and an IP processor (215), which obtain and stores the IP address (see paragraph [0038]; also see paragraph [0061]).

As of claim 9, it is a method of using the system of claim 2, so it is rejected as claim 2 above.

As of claim 10, it is a method of using the system of claim 3, so it is rejected as claim 3 above.

As of claim 12, it is a method of using the system of claim 5, so it is rejected as claim 5 above.

As of claim 14, Graziano disclose that the device control data is information for designating temperature (via remote device 10 using to web host 70 to control the temperature inside the home 30; see paragraph [0080]).

2. Claims 4, 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graziano et al. (US Pub 2002/0111698) in view of Sekiguchi (US Pub 2002/0156899) as applied to claim 1 and 8 above, and further in view of Nagaoka et al. (US Pub 2002/0180579).

As of claim 4, 11 and 13, Graziano discloses all the elements of the claimed invention as mention in claim 1 and 8 above, but fails to explicitly disclose that the device is a video recording device and device control data is information about programs.

Nagaoka discloses an electronic device remote control method and electronic device management facility in which a user uses the terminal device to send a command to the video recorder at home to record a certain program at a designated time (see paragraph [0110], and [0182-0185]).

From the teaching of Nagaoka it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the control system of Graziano to control a video recording device as taught by Nagaoka in order to assist the user if a user forgets to perform the presetting program recording while at home, the user can input programming remotely using the terminal device (see paragraph [0152], lines, 1-3).

Response to Arguments

As of claims 1, 3, 6 and 8, appellant argues that "the use of two servers is not a mere design choice" and further "Sekiguchi does not teach a second server operable to acquire and store a latest ip address of the device on the network by communicating with the device at predetermined time interval." The Examiner respectfully disagrees.

As explained in the rejection above, the Examiner believes, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the web-based system of Graziano to use more than one server since it has been known in the art that omission or addition of an element, which perform the same functionality, would be a matter of design choice. The Examiner would like to point out the originally filed claim 7 (which is now cancelled) stated, "wherein functions into which a function of the first server and a function of the second server are integrated are

provided by one server", which indicates that the system may comprise one or more servers, or servers may be combined into fewer number of servers, depending on computational or distributed computing requirements. Further in the field of the network it is known that multiple servers may be required for one or more of the functions performed on the network. In addition depending on the overall architecture of the system, the various servers may be combined or separated as necessary to match the demand of the communication load, convenience, economy or the like. Based on this definition the Examiner believes that at the time of the invention having two servers than one in a system is not a novel feature and it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the functionality of the two servers into one based on the system requirements. Further in the specification of the application, appellant admitted, "In the embodiment, the system is arranged to include two servers, i.e., the application server 20 and the application management server 30. Alternatively, these functions may be intergrated and packaged into one server" (see specification page 16, line 29 through page 17, line 2).

Appellent further argues that "Sekiguchi does not teach a second server is operable to acquire and store a latest IP address on the network by communicating with the device at predetermined intervals." The Examiner respectfully disagrees.

The claims 1 and 8 are rejected using the references of Graziano and Sekiguchi. Graziano discloses that the home device (home attendant 31 and home devices 40) communicates with the Web based host 70 (server) using the network 50 (internet) (see fig. 1; also see paragraph [0028]-[0030]). It is known when any device communicates

through the internet; it is assigned an IP address. This implies that the server in the references of Graziano is communicating with the devices (home 30) using their IP address. Graziano also discloses the predetermined time by storing the behavioral settings of the device, so the user can choose at what time to monitor or control and what time the device should send the status to the terminal device; see paragraph [0068]). Graziano further discloses that home devices can be configured to communicate with the remote device on occurrence of an event at home (see paragraph [0068]). Graziano further discloses that home devices can be configured to perform function at predetermined time of the day (see paragraph [0073], via turning the devices ON or OFF). Graziano further discloses that the home device can be configured to communicate with the remote device (terminal device) on completion of performing a function (like communicating to the remote device that temperature setting has been changed; see paragraph [0080]). This implies that a user can set the home device to communicate with the remote device (terminal device) at any time, based on the users need, through the Web based host on the network 50 (see fig. 1). Graziano further discloses that when the home device communicates the event to the Web Based host 70 it logs the event in a database, hence storing the information received from the home device and communicate the data/information to a user's remote device (terminal device) (see paragraph [0039]). So when ever the home device will communicate with the Web based host 70 on the network, Web based host 70 will acquire and store the IP address of the device.

Sekiguchi further discloses a system comprising two servers (home gate way 112 and gateway 118) to control home devices using a terminal device 116 (see fig. 1). Skiguchi further discloses that home gateway server 112 comprises two system (via first system and second system; see fig. 2; also see paragraph [0026]), wherein the second system is connected to peripheral devices (home devices) on home network. Sekiguchi further discloses that the second system is turned on when a device (such as printer 106; see fig. 1) is to be used by a user (see paragraph [0067]). Sekiguchi discloses that the first system periodically (predetermined time interval) monitors the connectivity conditions of controller 225 to determine whether the power of the second system is turned on, and when power is turned on, the first system acquires the IP address of the second system (see paragraph [0059]-[0063] and [0067]). since the device to be used (such as printer 106) is connected to the second system, the IP address assigned to the second system is used to identify the device on the network, because Sekiguchi discloses that the IP address information transmitted by the first system includes the MAC address of the machine (like printer 106) which transmitted a broadcast message. This definition shows that the IP address assigned to the second system is to identify the devices (like, home monitor 105, printer 106, scanner 107 or personal computer 108), to the external devices 116.

Appellant further argues that "Sekiguchi merely describes a first system assigning an IP address to a second system, and not an IP address being acquired (by the second server) by communicating with the device." The Examiner respectfully disagrees. As disclosed above, the second system is turned on, when a device

connected to the second system is to be used by the system. Sekiguchi discloses that in order to obtain the IP address the second system transmits a broadcast message which includes the MAC address of the device (for example devices 105, 106, 107 in fig. 1). Then the second system transmits the IP address information which include the MAC address of the device which transmitted a broadcast message (see paragraph [0068] and [0061]). When the IP address has been obtained by the second system it transmits a confirmation signal to the first system, the first system recognizes that the IP address assigned has been set. So the first system also stores the IP address and it is acquiring and storing the IP address of the device by communicating with the device, since the steps of obtaining the IP address includes communication with the device and the first system. Further both systems (the first system and the second system) are part of the server (home gate way 102), so even when the IP address is set in the second system, it is part of the home gate way (second server). So home gateway 102 (second server) does acquire and store the IP address of the device by communicating with the device.

Appellant further argues that Sekiguchi does not teach or suggest that a latest IP address is acquired." The Examiner respectfully disagrees. Sekiguchi discloses that when the second system has completed its function the IP address is released (see paragraph [0065]). So when ever the system turns on again a new IP address is used, hence acquiring the latest IP address.

Further the devices of Graziano and Sekiguchi communicate with the terminal devices through internet, so in order for the server to connect the home device to the

terminal device it will need to have the latest IP address of the device, because as disclosed above, a device is required to have an IP address to communicate through the internet.

So from the teaching of Graziano and Sekiguch it would have been obvious to one having ordinary skill in the art at the time the invention was made to acquire and store the latest address of the device, so the server will have the latest address of the device in case the IP address of the device is continuously changing.

As of claim 2, appellant argues that the references of Graziano and Sekiguchi "does not disclose an address generator operable to generate an IP address of the device controlled according to device control data with reference to a stored IP address and based on device control data received from a first server". The Examiner respectfully disagrees. As disclosed in claim 1, the functions performed by two servers in present claims, are performed by a single server (Web Based host 70) in the reference of Graziano. Grazaiano discloses the web based host 70 comprising home control panel files that contains the address of the home devices and allow the user to monitor and control home devices; see paragraph [0079]). Further as disclosed above when ever the Web Based Host 70 will transmit a message to the home device through the network 50 (internet) (see paragraph [0079]), the IP address of the device will be included in the message in order to determine where and for which device the message is intended for. For example, the IP address can be considered as a mailing address of a home, with the mailing address the post man does not know where to deliver the mail. Since Graziano discloses that the Web based host 70 communicates with the home

device (31 and 40), it has to have the address of the particular device, in order to identify a specific device to whom the message is intended for, from plurality of devices. Further in the reference of Sekiguchi when the home gateway 102 receives a signal from the terminal device 116 to control any device on the Ethernet 104, it will transmit the message using the IP address of the device, since that's the address that identify the device among plurality of devices (see fig. 1).

As of claim 3, appellant argues that the combination of Graziano in view of Sekiguchi "fails to teach a section operable to generate third transmission data including extracted status information , and transmit the third transmission data to a first server." The Examiner respectfully disagrees. Graziano discloses a section operable to generate third transmission data including the extracted status information (via web based host receiving an information regarding an event from the home device (31, 40) and transmitting the received data to the user; see paragraph [0039], lines 7-9) (also see paragraph [0084] and [0085]).

However Graziano fails to disclose two different servers. As disclosed above with respect to claim 1, the Examiner believes, since the reference of Graziano is performing the function of two server using only one server (Web based host 70) it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the web-based system of Graziano to use more than one server since it has been known in the art that omission or addition of an element, which perform the same functionality, would be a matter of design choice.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Conclusion

3. For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/N.S/

Conferee:

/Brian A Zimmerman/
Supervisory Patent Examiner, Art Unit 2612

/Daniel Wu/
Supervisory Patent Examiner, Art Unit 2612